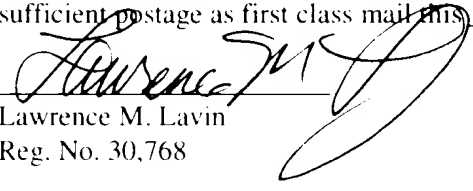


IN THE UNITED STATES PATENT AND TRADEMARK OFFICECertificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 with sufficient postage as first class mail this 8 day of October, 2002.

  
Lawrence M. Lavin  
Reg. No. 30,768

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In re the Application of: Timothy W. Conner et al

Serial No: 09/846,903      Group Art Unit: 1638  
Filed: May 1, 2001      Examiner: Cynthia E. Collins  
For: PLANT REGULATORY SEQUENCES FOR SELECTIVE  
CONTROL OF GENE EXPRESSION  
Confirmation No.: 4644

Assistant Commissioner for Patents  
Washington, D.C. 20231

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT UNDER 35 U.S.C. 1.21

This paper is filed in response to the Office communication dated September 17, 2002. It is respectfully requested that the election below be entered with traverse and that the application be examined on the merits.

Remarks

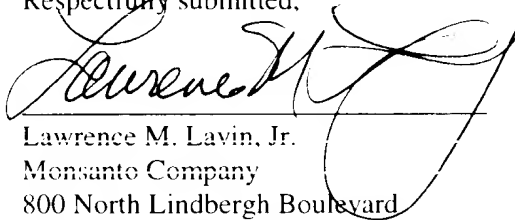
In the action dated September 17, 2002, the U.S. Patent and Trademark Office required restriction under 35 U.S.C. 121 from among the following groups:

- I. Claims 1-23, drawn to an isolated nucleic acid, a promoter, a cell, a transgenic plant, a method of regulating transcription, and a method of making a transgenic plant, classified in

Applicants elect Group I consisting of Claims 1-23 with traverse and respectfully request that the application be examined on the merits. Applicants believe that it would not create an undue burden on the Examiner to conduct a search encompassing all of the claims. Further, Applicants reserve the right to file divisional applications to further prosecute non-elected groups.

Should any questions arise or if Applicants or Applicants' attorney can facilitate the examination of this application, it is respectfully requested that the PTO contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Lawrence M. Lavin, Jr.", written over a horizontal line.

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October 9, 2002